

## Calendar No. 386

104TH CONGRESS  
2D SESSION**S. 1708**

To amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts.

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IN THE SENATE OF THE UNITED STATES

APRIL 25, 1996

Mr. THURMOND (for himself and Mr. DOLE) introduced the following bill;  
which was read the first time

APRIL 29, 1996

Read the second time and placed on the calendar

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**A BILL**

To amend title 28 of the United States Code to clarify  
the remedial jurisdiction of inferior Federal courts.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Judicial Taxation Pro-  
5 hibition Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds and declares that—

1           (1) a variety of effective and appropriate judi-  
2           cial remedies are available for the full redress of  
3           legal and constitutional violations under existing law,  
4           and that the imposition or increase of taxes by  
5           courts is neither necessary nor appropriate for the  
6           full and effective exercise of Federal court jurisdic-  
7           tion;

8           (2) the imposition or increase of taxes by judi-  
9           cial order constitutes an unauthorized and inappro-  
10          prium exercise of the judicial power under the Con-  
11          stitution of the United States and is incompatible  
12          with traditional principles of American law and gov-  
13          ernment and the basic American principle that tax-  
14          ation without representation is tyranny;

15          (3) Federal courts exceed the proper boundaries  
16          of their limited jurisdiction and authority under the  
17          Constitution of the United States, and impermissibly  
18          intrude on the legislative function in a democratic  
19          system of government, when they issue orders re-  
20          quiring the imposition of new taxes or the increase  
21          of existing taxes; and

22          (4) the Congress retains the authority under ar-  
23          ticle III, sections 1 and 2 of the Constitution of the  
24          United States to limit and regulate the jurisdiction  
25          of the inferior Federal courts which it has seen fit

1 to establish, and such authority includes the power  
2 to limit the remedial authority of inferior Federal  
3 courts.

4 **SEC. 3. AMENDMENT TO TITLE 28.**

5 (a) IN GENERAL.—Chapter 85 of title 28, United  
6 States Code, is amended by adding between sections 1341  
7 and 1342, the following new section:

8 **“§ 1341A. Prohibition of judicial imposition or in-**  
9 **crease of taxes**

10 “(a) Notwithstanding any other provision of law, no  
11 inferior court established by Congress shall have jurisdic-  
12 tion to issue any remedy, order, injunction, writ, judg-  
13 ment, or other judicial decree requiring the Federal Gov-  
14 ernment or any State or local government to impose any  
15 new tax or to increase any existing tax or tax rate.

16 “(b) Nothing in this section shall prohibit inferior  
17 Federal courts from ordering duly authorized remedies,  
18 otherwise within their jurisdiction, which may require ex-  
19 penditures by Federal, State, or local government where  
20 such expenditures are necessary to effectuate such rem-  
21 edies.

22 “(c) For purposes of this section, the term ‘tax’ in-  
23 cludes—

24 “(1) personal income taxes;

25 “(2) real and personal property taxes;

- 1 “(3) sales and transfer taxes;
- 2 “(4) estate and gift taxes;
- 3 “(5) excise taxes;
- 4 “(6) user taxes;
- 5 “(7) corporate and business income taxes; and
- 6 “(8) licensing fees or taxes.”.

7 (b) TABLE OF SECTIONS.—The table of sections for  
8 chapter 85 is amended by inserting between the item relat-  
9 ing to section 1341 and the item relating to section 1342,  
10 the following new item:

“1341A. Prohibition of judicial imposition or increase of taxes.”.

11 **SEC. 4. EFFECTIVE DATE.**

12 This Act and the amendments made by this Act shall  
13 take effect on the date of enactment.



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